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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,226	09/16/2003	Stephen J Brown	7553.00110 / 03-0910	2225
60683	7590	10/15/2010	EXAMINER	
HEALTH HERO NETWORK, INC. 2400 GENG ROAD, SUITE 200 PALO ALTO, CA 94303				FUELING, MICHAEL
ART UNIT		PAPER NUMBER		
3626				
MAIL DATE		DELIVERY MODE		
10/15/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No. 10/605,226 Examiner MICHAEL FUELLING	Applicant(s) BROWN, STEPHEN J Art Unit 3626
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. The amendment filed on 28 September 2010 under 37 CFR 1.312 has been considered, and has been:

- a) entered.
- b) entered as directed to matters of form not affecting the scope of the invention.
- c) disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.
- d) disapproved. See explanation below.
- e) entered in part. See explanation below.

AMENDMENTS TO THE CLAIMS: These are entered as to matters of form not affecting the scope of the invention.

DEFECTIVE OATH: The examiner has identified the 'material to examination' defect in the last paragraph of p. 1 of the 09/09/2003 oath. Applicant has requested a waiver of this defect in the oath. MPEP 602.03 permits waivers where: Minor deficiencies in the body of the oath or declaration where the deficiencies are self-evidently cured in the rest of the oath or declaration. *In re Searles*, 422 F.2d 431, 437, 164 USPQ 623, 628 (CCPA 1970). The identified defect is not a minor defect as it is a requirement under 37 CFR 1.56. Further, it is important to note, paragraph 3 of p. 2 of the oath makes clear the inventor's counsel explicitly intended the 'material to patentability' standard to apply to only a brief period of time. Accordingly, the requirement for a substitute oath cannot be waived. To the extent the assignee is not able to obtain the substitute oath from the sole inventor, the assignee may file a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.56.

/Robert Morgan/
Supervisory Patent Examiner, Art Unit 3626

/Michael Fuelling/
Examiner, Art Unit 3626